# Elderly Referral

### Project

(continued from page 3)

the counties already developed and expansion into other counties in the north.

The major proposal in the 1984 budget is to begin the development of the Project in at least one Southern New Mexico county. The State Agency on Aging is substantial considerina order to assistance in expand the Project statewide and meetings with that Agency will continue. Calls are coming in on the tollfree line from elderly persons southern ! ìn northern and counties counties not yet being served. At present advice only is given to these referral until persons panels are established in their areas.

Meanwhile planned follow-up will be given in counties where the project is already established.

Attorney s' will be trained in special areas of the law and periodic contact will be made with the local bar associations for feedback and updates on attorney Media releases will be sent out to keep the public aware of the services, and contacts will be made with the senior centers and other volunteer groups for further information on clients and needs.

It is well to keep in mind the growing number of elderly citizens in New Mexico and, therefore, the growing need for this type of project. By 1985 It is estimated that of 1,479,700 residents in New Mexico, 266,400 will be 55 or older

(18%); by the year 2000, of 1,953,400 residents, more than 20%, or 385,800 will be is that this project will assist those in need during this greving process.

# Disciplinary

#### Note

An attorney was retained by a woman to represent her in a divorce action. retainer agreement The provided for a fee \$464.00 if the divorce was uncontested and a fee of \$85.00 per hour if the matter was contested.

The divorce became contested and the attorney's bill rose to over \$1,100.00. When the client did not make payment the attorney withdrew from the case before the three weeks hearing. The scheduled attorney the asserted an attorney's lien on his file and a possessory lien upon a book that the client had gratuitously loaned him.

client's ex-husband The subsequently complained to the Disciplinary Board about the size of the attorney's fee and about the attorney's refusal to return certain items of personalty to the ex-wife among which was the book in question. Upon inquiry from the Disciplinary Board the attorney asserted that he did not wish to retain the book for its own value but was keeping it only as a lever to force the client to pay his fee.

A reviewing officer to whom the Board's file was sent noticed that the attorney had billed three hours of his time for a letter advising the client how to con-

duct herself at the trial. While the letter was five pages in length, it was, age 55 or older. The hope obviously a form letter. Several paragraphs of the letter contained instructions to clients who were seeking damages for personal iniuries.

> It was the opinion of disciand counsel plinary reviewing officer that the attorney had misused his position when he asserted a lien against the book his client had loaned him. It is essential to the existence of the attorney's possessory lien that the property be received by the attorney in the course of the professional employment and not by way of a friendly gesture. Furthermore, the attorney acknowledged he was keeping the book not because of its value but because the client wanted? During the course of the Disciplinary Board's investigation, the attorney returned the book but was cautioned about conduct of this sort, which would cast doubt on his fitness to practice law in violation of Disciplinary Rule 1-102 (A)

it was also the opinion of both disciplinary counsel and the reviewing officer that the attorney had charged a clearly excessive fee when he billed her \$265.00 for sending his client a form letter regarding her demeanor at trial. Even though the attorney acknowledged that entire letter was composed of boilerplate material and had been previously used by him many times, hel for the woman charged timo three hours of his

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Section A

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## Disciplinary

#### Note

continued from page 4) composing the letter. As previously noted, parts of the letter did not even relate to the issues involved in the woman's case. the total fee was not seen as excessive, the charge for letter violated Disciplinary. Rule 2-106 which prohibits an attorney from charging or attempting to charge a clearly excessive fee.

With the concurrence of a reviewing officer the attorney was offered an informal admonition conditioned upon acknowledgment writing that his conduct violated Disciplinary Rule 2-106 which prohibits the charging of excessive fees. The attorney initially refused to accept the offer. Pursuant to Rule 9(a) of the Supreme Court Disci-

plinary Board Rules Procedure the rejection of the offer of an informat admonition compelled Disciplinary Counsel to formal charges against the The day before attorney. the hearing on the formal charges the attorney changed his mind and accepted the informal admonition.

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